



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

EEOC No.: 846-2013-23408

██████████,
Complainant,

v.

GREATER OPPORTUNITIES FOUNDATION (GEO),
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b).

On May 23, 2013, ██████████ ("Complainant") filed a Complaint with the Commission against Greater Education Opportunities-GEO Foundation ("Respondent") alleging race (African-American) and sex discrimination in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) and ██████████. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The first issue before the Commission is whether Complainant was terminated on the basis of his race and/or sex. In order to prevail, Complainant must show that: (1) he belongs to a protected class; (2) he suffered an adverse employment action; (3) he was meeting Respondent's legitimate business expectations; and (4) similarly-situated employees of a different race and gender were treated more favorably under similar circumstances.

Complainant clearly is a member of a protected class by virtue of his race and gender, and it is undisputed that he was terminated by Respondent on January 25, 2013. Thus, the only remaining issues are whether Complainant was meeting his employer's performance expectations and, if not, were similarly-situated employees of a different race afforded more favorable treatment under similar circumstances.



By way of background, Complainant was hired in March 2012 as the principal of Gary Middle College operated by Respondent. Complainant asserts and the evidence supports that during this time, he was never subjected to disciplinary action. However, Complainant was suddenly terminated by letter on or about January 25, 2013, stating that “despite our attempts to work with you and provide to you training and staff support, we continue to see a pattern of behavior and issues that are increasingly harmful.” Despite Respondent’s assertions regarding Complainant’s work performance, there is evidence that Respondent treated Caucasian and female counterparts more favorably by implementing Strategic Plans and affording them opportunities to have Performance Base Compensation Plans in lieu of immediate termination. Further, there is evidence that Respondent transitioned Complainant’s replacement into his position starting in November 2012. In November 2012, Complainant alleges that Respondent notified him that his school would receive an Assistant Principal. However, in December 2012, Respondent indicated they would be hiring a Principal. On January 17, 2013, Complainant received an email indicating that Respondent hired a new Caucasian principal that would begin employment on January 22, 2013; Complainant was subsequently terminated and replaced by the Caucasian employee on or about January 25, 2013.

During the course of the Commission’s investigation into Complainant’s allegations, Respondent was given ample opportunity to answer Complainant’s allegations and to uphold its burden to produce evidence of a legitimate non-discriminatory reason for the adverse employment action taken towards Complainant. However, Respondent failed to avail itself of the opportunity to do so. Thus, based upon the above-findings, there is probable cause to believe that Complainant was wrongly terminated on the basis of race and gender.

The second issue before the Commission is whether Complainant was subjected to harassment on the basis of his race. In order to prevail, Complainant must show that: (1) he experienced unwelcome racially offensive comments or actions in the workplace; (2) the comments or actions severe and/or pervasive; (3) he made it known that the comments were unwelcome; and (4) Respondent failed to take corrective action to address the hostile work environment.

Complainant alleges that during the course of his employment with Respondent, a male and female Caucasian co-workers made racial comments directed to him like “violent black man”, “big scary” and that he was frightening. Complainant indicated that he made Respondent aware that these comments were unwelcome; however, Complainant claims Respondent failed to take corrective action to address the hostile work environment. Again, Respondent failed to avail itself of the opportunity to respond to Complainant’s allegations; as such, based upon available evidence, there is probable cause to believe that Complainant was subjected to a hostile work environment on the basis of race.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify

the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

September 17, 2013

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission